



**COMMUNITY DEVELOPMENT  
BLOCK GRANT  
DISASTER RECOVERY  
AND MITIGATION  
IMPLEMENTATION MANUAL**

*Texas General Land Office*

*Community Development and Revitalization*

June 2020

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*The GLO-CDR Implementation Manual provides guidance for CDBG-DR and CDBG-MIT grantees and Subrecipients and should not be construed as exhaustive instructions.*

# CHAPTER 1 – INTRODUCTION

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## **CHAPTER 1 - INTRODUCTION**

The Community Development Block Grant-Disaster Recovery (“CDBG-DR”) Program is authorized under Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 *et seq.*), as amended and, in the event of a Presidentially declared disaster under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S. 5121 *et seq.*), provides the vehicle through which Congress may appropriate funding to aid disaster impacted areas in the recovery process. The U.S. Department of Housing and Urban Development (“HUD”) is the federal authoritative agency for any Congressionally allocated CDBG-DR funds and promulgates the specific rules to govern those allocations.

In 2011, the Governor of Texas designated the Texas General Land Office (“GLO”) as the state agency to provide the administration of CDBG-DR grant programs. The Community Development and Revitalization division of the Texas General Land Office (“GLO-CDR”) oversees the administration of CDBG-DR funds allocated to Texas by HUD following a disaster.

On August 30, 2019, HUD announced via a Federal Register notice the allocation of \$6.875 billion in Community Development Block Grant (CDBG-MIT) funds appropriated under the Supplemental Appropriations for Disaster Relief Requirements Act, 2015 Public Law (P.L.) 115-123 in response to 2015, 2016, and 2017 disasters. The State of Texas was allocated \$4,297,189,000 from this appropriation and identified the General Land Office (GLO) as its administrative agency for the funds. These CDBG-MIT funds will be used to build and implement structural and non-structural projects, programs, and partnerships throughout the state of Texas that reduce the risks and impacts of future natural disasters.

### **1.MIT CDBG-MIT Guidance**

CDBG-MIT funds provide a unique opportunity for grantees to develop strategies to reduce future losses. Overall, HUD seeks to: 1) support data-informed investments in high-impact areas; 2) build the capacity of States and local governments to evaluate disaster risks; 3) support the implementation of policies that reflect local and regional priorities that will have long-lasting effects on community risk reduction; and 4) maximize the impact of available funds from other sources. *The State of Texas CDBG Mitigation Action Plan: Building Stronger for a Resilient Future* outlines the use of funds, programs, eligible applicants, and eligibility criteria.

Throughout the GLO-CDR Implementation Manual, any guidance which is specific and unique to CDBG-MIT funds will be located at the beginning of each chapter under the MIT subchapter and will be named as “{chapter number}.MIT”. Additional CDBG-MIT guidance and resources can be found on the GLO-CDR website at <https://recovery.texas.gov/mitigation/index.html>.

### **1.1 Background**

CDBG-DR funds are special appropriations from Congress made in response to a presidentially declared disaster specifically for disaster relief, long-term recovery, restoration of infrastructure and housing, and economic revitalization in the impact area. These Appropriation Acts generally outline the total amount of funding being allocated and present a detailed breakdown of how funding is divided among Presidentially declared disaster areas.

The rules and regulations attached to each designated funding subgroup are then published into law via the Federal Register. See the [Resources](#) at the end of this chapter for links to Federal Register notices. These rules and regulations include an authorization from HUD's Secretary to modify or waive any department policy or CDBG-DR regulation that could impede the prompt implementation of disaster relief and associated community development programs.

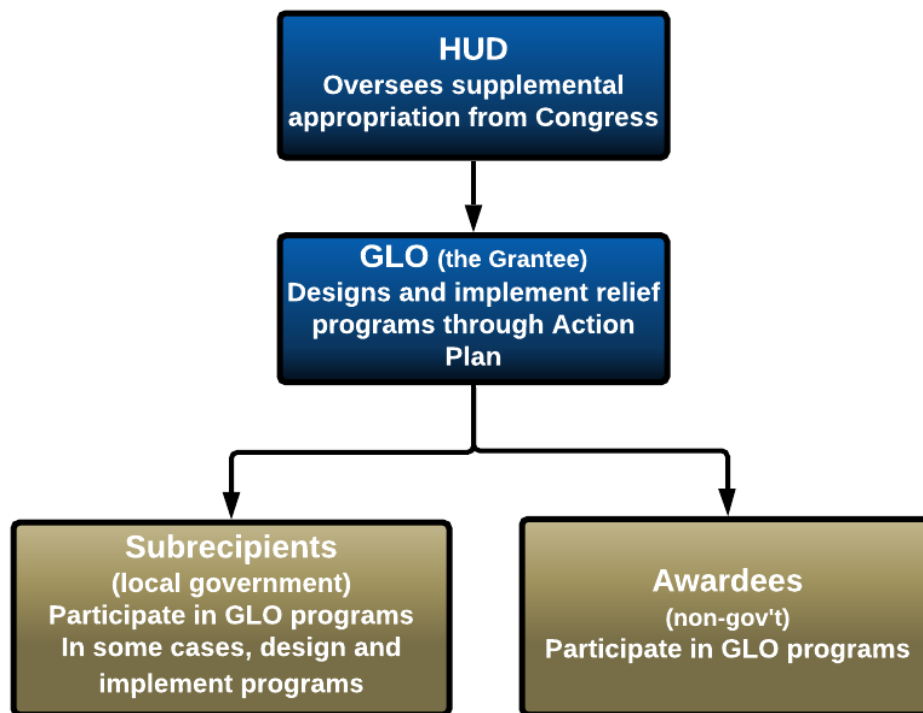
In response to recent Presidentially declared disasters, HUD has delegated program design and implementation to a Grantee. HUD's role in executing grant agreements with affected states or local governments includes, but is not limited to, the following:

- Ensure the drafting of the Action Plans, and any subsequent amendments, are acceptable in light of the requirements presented in the Federal Register associated with that particular allocation;
- Consider and issue waivers of existing statutory requirements, department policy, or other governing regulation within its' power to ensure a streamlined recovery process;
- Define alternate requirements when necessary; and
- Monitor state implementation of program activities

The designated Grantee must draft and submit an Action Plan for approval to HUD, thus assuring the proposed recovery programs and usage of funding are in compliance with all applicable federal law and the requirements presented in the Federal Register Notice(s).

The Action Plan, inclusive of any and all approved amendments, defines the scope of programs and defines the method by which funds shall be appropriated to each of the programs described. Upon acceptance by HUD, the Grantee is delegated administration duties through the granting of grant awards associated with each program.

Individual projects within the programs outlined in an approved Action Plan may be implemented after an application process is completed. Awarded contracts as a result of this process define the activities to be undertaken, establish a budget for the project, and include requirements with which the Subrecipients must comply. Each administrator of programs and/or individually approved projects must become familiar with the terms of the grant award and associated statutory and regulatory waivers.



## **1.2 Purpose**

This Manual is intended to provide guidance and training for Subrecipients identified as Subrecipients of a CDBG-DR and/or CDBG-MIT grant allocations. The Manual outlines the policies and procedures to ensure effective implementation of a CDBG-DR and/or CDBG-MIT program within the requirements for timely expenditure of funds.

It is the responsibility of each recipient of CDBG-DR and/or CDBG-MIT funds to understand the federal and state requirements that apply to these funds and to adhere to them. It is important to thoroughly read this manual and the referenced regulations, Federal Registers, Action Plans, and guidance documents prior to implementing a program. Subrecipients must carry out proper and efficient grant administrative practices.

## **1.3 Manual Structure**

Each chapter describes the tasks to accomplish CDBG-DR and/or CDBG-MIT activities. Throughout each chapter of the Manual supporting materials (forms, documents, letters, checklists) may be referenced or provided to assist with implementation. These will be listed at the end of each chapter in [Resources](#).

This manual is available on the GLO-CDR website so interested parties may easily search for terms, rules, procedures, and forms needed to implement activities.

During the grant lifecycle each Subrecipient will be assigned a GLO-CDR Grant Manager and given the Grant Manager's contact information. Grant Managers will conduct regular meetings

and on-site visits and serve as the main point of contact for the Subrecipients. The GLO-CDR Grant Manager shall be available to answer any questions and receive all requests related to the administration of the grant. Subrecipients will also be given back-up contact information when their Grant Manager is unavailable.

Subrecipients may request the name and contact information for their assigned Grant Manager by contacting the GLO-CDR by phone at 1-844-893-8937 or by email at [CDR@recovery.texas.gov](mailto:CDR@recovery.texas.gov).

Please note that certain chapters and sections within the Manual and the supporting documents provided in [Resources](#) may not apply to every activity or program. Subrecipients should contact their assigned GLO-CDR Grant Manager with questions regarding specific requirements.

## **1.4 Application and Project Eligibility**

Subrecipients are required to submit an application to GLO for their allocated CDBG-DR or CDBG-MIT funding prior to contract execution. Applicants may request technical assistance during the application phase to facilitate completion of a successful application. Links to Application forms for each CDBG-DR and/or CDBG-MIT program may be found below in [Resources](#). The application establishes and documents National Program Objectives, project beneficiaries, tie-back to the disaster event, duplication of benefits calculations, project budgets, and describes eligible project activities to implement upon application approval and contract execution. Application requirements vary depending on the Federal Register and Action Plan requirements for that disaster. Specific application guidance will be available through an Application Guide issued for the respective event.

### **1.4.1 National Objectives**

Disaster Recovery projects using CDBG-DR funds must meet one of the following HUD-designated National Objectives and must document how they have met the National Objectives specified in their application. The National Objective is not considered met until project funds have been expended and final monitoring documentation has been completed (see additional information in [Resources](#) at the end of the Chapter and within the Federal Registers).

Every grant must meet one of the National Objectives below:

- Principally benefit low and moderate income (LMI) persons;
- Eliminate or prevent slums and blight; and
- Address an urgent need

The primary objective of the HCD Act is the “development of viable urban communities, by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income” (42 U.S.C. 5301(c)). To carry out this objective, the statute requires that not less than 70 percent of the aggregate of CDBG program funds be used to support activities benefitting low- and moderate-income

persons. Subrecipients are generally required to meet this goal in carrying out their own activities.

Subrecipients must maintain records showing that funded activities meet one of the National Objectives. Depending on the Objective, the files must contain, at a minimum, the following specific documentation for purposes of proving that a National Objective was met:

<b>Benefit to Low and Moderate (LM) Income Persons or Households</b>	
<b>National Objective</b>	<b>Required Documentation</b>
LMI Area Benefit (LMA)	Boundaries of service area  Census data including total persons and percentage low/mod  Evidence area is primarily residential  Income survey documentation (if applicable)
LMI Limited Clientele (LMC)	Documentation beneficiaries are low/mod or presumed to be low/mod (by category)
LMI Housing (LMH)	Housing Income verification of households (using the Section 8 definition) including source*
LMI Buyout (LMB)	Housing Income verification of households (using the Section 8 definition) including source*
LMI Housing Incentives (LMHI)	Housing Income verification of households (using the Section 8 definition) including source
LMI Job Creation or Retention (LMJ)	Number of jobs created or retained  Type and title of jobs created or retained  Income of persons benefiting from the jobs created or retained
<b>Elimination of Slum and Blight</b>	
Area designation (e.g., boundaries, evidence area meets slum/blight requirements)	
Documentation and description of blighted conditions (e.g., photographs, structural surveys, or development plans)	
If applicable, evidence that the property meets spot designation requirements (e.g., inspections)	
<b>Urgent Need</b>	



Description of disaster-related impact being addressed by the activity in terms of type, scale, and location**
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\*Additional LMI criteria, allowed for most CDBG-DR and/or CDBG-MIT allocations, see relevant Action Plan

\*\*Certification requirements waived for most CDBG-DR and/or CDBG-MIT allocations, see relevant Action Plan

Most housing activities provide an individual benefit, where the occupants of specific housing units receive a benefit from the proposed activity. Public facilities activities generally qualify under the low to moderate income area benefit. A link to HUD's LMI Summary Data (LMISD) for use in determining whether projects meet the LMI Area Benefit National Objective can be found in [Resources](#) at the end of this chapter. Public facilities and improvements that aid in the prevention or elimination of slums or blight in a designated slum/blight area may qualify under the slum/blight area basis.

If proposed activities respond to a disaster-related impact but cannot meet another National Objective, the urgent need National Objective may be used. Subrecipients shall describe the disaster-related impact in terms of type, scale, and location for each infrastructure or housing activity where the urgent National Objective is used. While urgent need and slum and blight are allowable National Objectives for CDBG-DR, the overall benefit requirement of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.) remains in place. This means that Subrecipients must use no less than 70 percent of their CDBG program funds to support activities benefitting LMI persons.

#### **1.4.2 Duplication of Benefits (DOB)**

Many federal and state agencies are involved in responding to Presidentially declared disasters under the Stafford Act. Subrecipients should be aware that the Supplemental Appropriations Act authorizing CDBG-DR and/or CDBG-MIT funding may include restrictions on using those program funds to provide assistance when insurance providers or other federal or state agencies have already funded all or a portion of a disaster relief activity. Certain Supplemental Appropriations Acts also include restrictions against use of those program funds as a matching requirement, share or contribution for any other federal program.

The Stafford Act contains eligibility requirements for recipients who have received prior disaster funding based upon whether or not they are in compliance with requirements associated with receipt of those funds. Where applicable, recipients must be in compliance with these restrictions or individual funding will be denied. If you have any questions on use, compliance, determining and/or calculating duplication of benefits, refer to the guidance in [Resources](#) and contact a GLO-CDR Grant Manager.

#### **1.4.3 Beneficiaries**

In order for LMI Area benefit projects to qualify for funding under the LMI National Objective, documentation must be maintained to verify that at least 51% of the project beneficiaries are low- and moderate-income persons.

An area-wide project benefit is achieved when the beneficiaries of an activity reside in the target area directly served by the activity. Some examples of typical LMI Area benefit projects

include:

- Water/sewer line replacement;
- Street reconstruction; and
- Utility work benefiting a water supply corporation service area

A city-wide benefit project occurs when an activity will benefit the entire incorporated city or town. Some typical examples of city-wide benefit projects where the infrastructure may serve an entire community include:

- Water/sewer plant improvements;
- Water storage tank; and
- Water wells

A project with individual benefit includes LM Limited Clientele, LMI Housing, LMI Buyout, and LMI Housing Incentives. For an individual benefit project to qualify for funding under the LMI National Objective, documentation must be maintained to verify that individual income levels comply with HUD's regulations established in the Federal Register.

Some examples of individual LMI benefit projects include:

- Housing rehabilitation or reconstruction for single family homes;
- Reimbursement of costs to repair disaster event damaged homes; and
- Relocation and down payment assistance

CDBG-DR requires applicants to document and report the beneficiaries of each funded activity regardless of the national program objective met by the activity. See the CDBG-DR guidance provided in the Housing Guidelines in [Resources](#) at the end of this chapter.

#### **1.4.4 Eligible Activities**

Each activity must: (1) be a CDBG-eligible activity (or be eligible under a waiver or alternative requirement in this notice); (2) meet a CDBG National Objective; and (3) address a direct or indirect impact from the major disaster in a Presidentially declared county.

Eligible Activities are detailed in the approved Action Plan for a given disaster. Examples of eligible activities include acquisition, buyouts, infrastructure, new housing construction, rehabilitation, and reconstruction, or public facilities.

Public facilities include water facilities, sewer facilities, solid waste disposal facilities, other publicly owned utilities, public systems, fire stations, fire protection equipment, and community or senior citizen centers. Street improvements and drainage/flood control improvements are also eligible public facility activities. For more comprehensive information about eligible project types refer to the program-specific CDBG-DR and/or CDBG-MIT application guides found on the GLO-CDR website through the program links in [Resources](#).

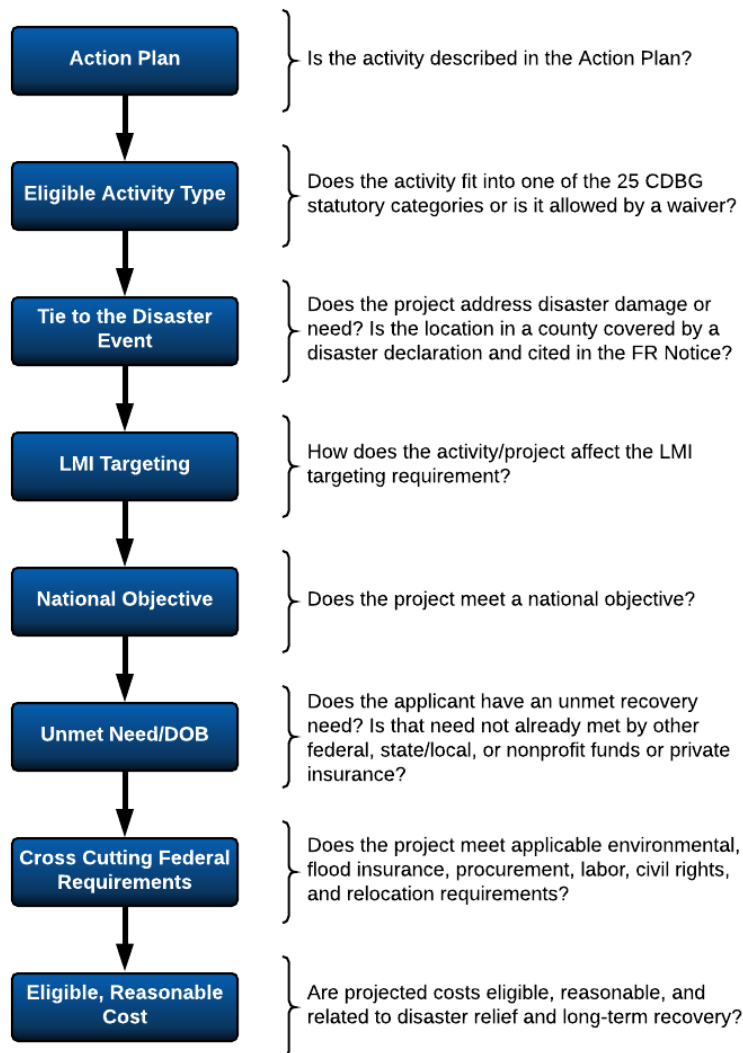
The CDBG-DR program provides flexibility in the activities eligible for funding, prioritizing the

range of activities in the Action Plan that were determined to be the principal unmet needs. A full list of eligible activities can be found at Section 105(a) of the HCDA 42 USC Section 5305 and additional parameters are found at 24 CFR 570.482. The CDBG-DR and CDBG-MIT Action Plans can be found on the GLO-CDR website at <http://recovery.texas.gov/> or can be obtained by contacting GLO-CDR at [CDR@recovery.texas.gov](mailto:CDR@recovery.texas.gov).

All activities and projects must address an impact from the disaster event, referred to as “tie back.” For physical losses, damage assessments or insurance estimates may be used. For economic or other non-physical losses, post-disaster assessments and analyses documenting the relationship between the loss and the disaster may be used. Funds may be used to address an unmet need that arose from a previous disaster, which was exacerbated by the disaster cited in the Appropriation. Simply being located within a declared county is not sufficient to document impact from the disaster event.

#### *Determination of Eligibility*

When assessing an activity and project for an application all of the below questions must be answered in the affirmative and documented before a funding award is made:



### 1.4.5 Ineligible Activities

Any activity not authorized under the Action Plan, CDBG-DR, or CDBG-MIT statute and/or regulations, as noted in the applicable Federal Register Notices, is ineligible to be assisted with CDBG-DR and/or CDBG-MIT funds. In addition, the following activities, as referenced in 24 CFR 570.207, are specifically deemed ineligible for CDBG-DR funding assistance:

- Duplicative projects;
- Projects that do not comply with local, state and/or federal regulations;
- Buildings for the general conduct of government, except to create accessibility for the disabled population, and as waived by HUD (e.g., city hall, courthouse, Emergency Management Center);
- General government expenses;
- The financing of political activities;
- Faith-based organizations are eligible for CDBG-DR funding but may not use CDBG-

DR funding to support inherently religious activities and must serve all eligible beneficiaries without regard to religion;

- Purchase of equipment that is not fixed in place, including construction equipment;
- Purchase of equipment or furnishings for a property except under certain conditions, including authorization as a special economic development activity or activities carried out by a special nonprofit;
- Income payments, except under certain conditions (Income payments are defined as direct payments to subsidize rent and/or utilities);
- Law enforcement;
- Emergency Operation Centers (EOC);
- Duplication of Benefits with other loans, grants, or insurance proceeds (see 1.4.2);
- Operation and general maintenance (O&M) expenses of public facilities, improvements and services; and
  - Infrastructure O&M example: Smoke testing, line televising, and line cleaning (vacuuming, jetting, etc.) and other methods used to identify specific sections of wastewater line that require maintenance to reduce or eliminate the amount of inflow or infiltration routed to treatment facilities are considered maintenance activities. The process of identifying target areas for wastewater line replacement must be completed prior to the submission of an application in order for the scope of the project to be fully identified and to expedite construction completion. Similar methods may also be used as a part of construction and inspection of the new lines. Use of line televising and similar methods is considered acceptable only for:
    - Pre-construction testing on a specific reach of line (manhole to manhole); and/or
    - Inspection of newly constructed lines to verify proper installation
- Software is generally ineligible unless it is integral to the function of an improvement and not utilized for billing or other O&M purposes. For example, software required for the operation of a SCADA system is eligible. If software is used for both functional and O&M (billing) purposes, up to 50% of the software costs may be considered eligible.

### **1.5 Pre-Agreement Costs**

Pre-award costs are those incurred by a Subrecipient prior to the start date of the CDBG-DR grant award contract, known as the Subrecipient Agreement. These costs may be deemed, in the sole discretion of the GLO, as necessary to comply with the proposed delivery schedule or period of performance and may be considered allowable only to the extent that they would have been allowable if incurred after the start date of the CDBG-DR Subrecipient Agreement (24 CFR 570.489(b)).

The GLO may allow Subrecipients to incur costs for CDBG-DR activities before the CDBG-DR Subrecipient Agreement start date and to charge these pre-agreement costs to the grant only if those costs incurred reflect the following:

- The activities for which the funds were used are eligible costs;

- The activities for which the funds were used meet a National Objectives of the program;
- The activities for which the funds were used are authorized under applicable state and/or federal law; and
- Funds were utilized for procurement for grant expenditures specific to the CDBG-DR funding and as supported by adequate documentation

The Subrecipients may not incur costs or expend any awarded funds for project construction prior to, at a minimum:

- Meeting the Environmental Review requirements in the CDBG-DR Subrecipient Agreement, and
- Satisfactorily submitting all applicable start-up documentation to GLO

Best practice is to contact your GLO-CDR Grant Manager before incurring any costs intended to be reimbursed by CDBG-DR and/or CDBG-MIT funds.

## **1.6 Record Retention**

Project records should provide a historical account of the CDBG-DR and/or CDBG-MIT project and must be available for examination and review by local staff, the GLO, HUD, state and federal auditors, other state agencies, and any other interested parties. Each Subrecipient must maintain a complete set of files at the local office level.

All local records relating to a CDBG-DR and/or CDBG-MIT award must be maintained for three (3) years after close-out of HUD's grant to the State of Texas. GLO will notify Subrecipients when a grant has closed by sending a letter that includes the specific date of the grant closeout and the retention period.

If Subrecipients are notified by GLO in writing, or if other applicable laws and regulations as described in 24 CFR 570.490 apply to a project, the record retention period may be extended. If any litigation, public information request, claim, or audit is started before the expiration of the record retention period, the records must be kept until the action has been fully resolved.

## **1.7 Complaint Procedures**

The GLO has adopted a public complaint process to investigate and resolve issues arising from its administration of CDBG-DR and/or CDBG-MIT programs. Subrecipients should adopt a similar or equivalent provision that provides for the creation and implementation of policies and procedures to address any and all complaints arising out of the administration of CDBG-DR and/or CDBG-MIT programs. The Subrecipients must retain records related to any complaint received and the resolution of the complaint (see [Resources](#) for additional information).

## **1.8 Training**

The GLO is committed to providing training and resources to Subrecipients to ensure effective

and efficient implementation of programs. This training shall be provided on an as-needed basis and upon request. A link to the GLO-CDR Training Plan and other training resources can be found in [Resources](#).

### **1.9 CDBG-DR Toolkit**

HUD's CDBG-DR Toolkit provides additional information to assist Subrecipients create and implement an effective, compliant CDBG-DR Program. It incorporates guidance on program rules, lessons learned from previous CDBG-DR grantees, and sample tools to assist in program design and implementation.

The Program Launch section provides critical information on program rules and offers tips and tools for establishing the systems, procedures, and capacity needed to implement compliant and effective CDBG-DR funded programs.

The Program Implementation section describes important design considerations and provides implementation tools for common CDBG-DR activities including Homebuyer, Homeowner Rehabilitation, Rental Rehabilitation, Buyouts, Small Business Loans, and others.

Because no two grantees are identical and every disaster presents new challenges, the tools should be adapted to meet your local circumstances and recovery needs. A link to the CDBG-DR Toolkit can be found in [Resources](#).

## 1.10 Resources

The GLO-CDR has created a comprehensive website which contains necessary forms, checklists, detailed guidance documents, and additional resources to supplement this Implementation Manual. During 2020, the website is undergoing a redesign to improve user experience. This may temporarily impact the availability of some hyperlinks provided within Implementation Manual chapters. Please see <http://recovery.texas.gov/> for more information.

Please direct all questions regarding your specific program or project to your assigned GLO-CDR Grant Manager.

The resources below will be updated as new forms and documents are developed and come online.

**Note:** Internet Explorer may work best for some forms found on the website.

Topic/Form	Location
Action Plans for Texas CDBG-DR and CDBG-MIT Allocations	<a href="http://recovery.texas.gov/action-plans/index.html">http://recovery.texas.gov/action-plans/index.html</a>
CDBG-DR Toolkit (HUD)	<a href="https://www.hudexchange.info/programs/CDBG-DR/toolkits/">https://www.hudexchange.info/programs/CDBG-DR/toolkits/</a>
Citizen Participation Plans (GLO)	<a href="http://recovery.texas.gov/local-government/hud-requirements-reports/citizen-participation-plans/index.html">http://recovery.texas.gov/local-government/hud-requirements-reports/citizen-participation-plans/index.html</a>
Complaints Process (GLO)	<a href="http://recovery.texas.gov/local-government/hud-requirements-reports/appeals-process/index.html">http://recovery.texas.gov/local-government/hud-requirements-reports/appeals-process/index.html</a>
Duplication of Benefits	<a href="https://recovery.texas.gov/local-government/resources/duplication-of-benefits/index.html">https://recovery.texas.gov/local-government/resources/duplication-of-benefits/index.html</a>
Federal Registers for CDBG-DR and CDBG-MIT Allocations	<a href="https://www.govinfo.gov">https://www.govinfo.gov</a>
Housing Guidelines for Texas CDBG-DR Allocations	<a href="http://recovery.texas.gov/local-government/hud-requirements-reports/housing-guidelines/index.html">http://recovery.texas.gov/local-government/hud-requirements-reports/housing-guidelines/index.html</a>
LMI Summary Data	<a href="https://www.hudexchange.info/programs/acs-low-mod-summary-data/acs-low-mod-summary-data-block-groups-places/">https://www.hudexchange.info/programs/acs-low-mod-summary-data/acs-low-mod-summary-data-block-groups-places/</a>



Mitigation Funding for Texas	<a href="https://recovery.texas.gov/mitigation/index.html">https://recovery.texas.gov/mitigation/index.html</a>
National Objectives and Eligible Activities Guide	<a href="https://www.hudexchange.info/resource/2179/guide-national-objectives-eligible-activities-state-cdbg-programs/">https://www.hudexchange.info/resource/2179/guide-national-objectives-eligible-activities-state-cdbg-programs/</a>
Press Releases for Texas CDBG-DR and CDBG-MIT Allocations	<a href="http://recovery.texas.gov/press-releases/index.html">http://recovery.texas.gov/press-releases/index.html</a>
Programs for Texas CDBG-DR Allocations	<a href="http://recovery.texas.gov/local-government/programs/index.html">http://recovery.texas.gov/local-government/programs/index.html</a>
Public Notices for Texas CDBG-DR and CDBG-MIT Allocations	<a href="http://recovery.texas.gov/public-notices/index.html">http://recovery.texas.gov/public-notices/index.html</a>
Training Plan and Technical Assistance for GLO-CDR Topics	<a href="http://recovery.texas.gov/local-government/training/index.html">http://recovery.texas.gov/local-government/training/index.html</a>